

October 6, 2006  
Job No. 3231-00  
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Mr. Mike Mena  
City of San Jose  
Department of Planning, Building and Code Enforcement  
200 E. Santa Clara Street  
San Jose, CA 95113

Re: Evergreen Development Policy 3<sup>rd</sup> Draft

Mike,

On behalf of the Evergreen East Hills Housing Group (EEHHG) we are respectfully submitting the following comments on the 3<sup>rd</sup> Draft of the Evergreen Development Policy dated September 2006.

EEHHG has worked with the Task Force and city staff for several years on a comprehensive development plan for the build out of the Evergreen area. During January of 2005, we put forward a development proposal that could fund a certain level of amenities and traffic improvements (approximately \$235 million, excluding land dedications). The proposal that was put forward at that time was based on several key assumptions that are not considered by the 3<sup>rd</sup> Draft of the Evergreen Development Policy. The current Draft EDP makes the proposed funding of the amenities and traffic improvements unviable.

The draft Development Policy anticipates that development would provide \$255 million dollars to fund traffic improvements and amenities. This is a \$20 million dollar increase, over one of the key assumptions, that should not be required for the development of the opportunity sites.

The first and second draft of the development policy exempted the opportunity sites from the citywide Parkland Dedication Ordinance and Parks Impact Fee requirements. EEHHG have used this assumption as an essential element of their proposed development plans. In the third draft of the policy the text was changed to read "All new Residential development occurring pursuant to this policy ~~excepting the four Opportunity Sites~~ will be subject to the city wide Parkland Dedication Ordinance." The owner's development plans have incorporated many requests from the community and include significant land dedication for public use, contributions to traffic improvements and park amenities (\$120 million above what would normally be required). It is unfair to ignore these contributions that exceed the requirements of the Parkland Dedication Ordinance. To impose an additional fee, with no supportable nexus, in addition to the proposed traffic improvements and park amenities is unjustified and not one of the previously agreed to key assumptions.

The EEHHG proposal includes retail uses on the Evergreen Community College. The text on page 12 of the EDP states "This commercial square footage may be used for either retail or commercial office development, but may not be allocated for development of a grocery store." This statement

is problematic for the development of this site. The development of this site includes a mix of affordable housing, market-rate housing, office and retail. The viability of the development of this site is greatly restricted by language that prematurely restricts the specific types of retail that may be allowed on the site. We request that you remove the text that the retail square footage may not be allocated for the development of a grocery store as this requirement exists in no other similar project in the City of San Jose.

The third draft of the Development policy identifies a pool of additional residential units within the policy area that could be developed at any time after the first phase of the policy. The only fee that these units would be subject to is a Traffic Impact Fee estimated to be \$6,000 to \$12,000 per unit. The draft policy requires the opportunity sites to contribute \$140 million dollars to start the development of Phase 2. It is unreasonable to have such a tremendous disparity between the commitment of the opportunity sites and the additional residential units at the second phase of the development policy. EEHHG proposes that the allocation of residential pool units be allowed in phase three, after the completion of the second phase, with a Traffic Impact Fee of \$6,000 to \$12,000 per unit. If a project comes forward during Phase 2 of the policy and is willing to voluntarily contribute on a level that is comparable to the opportunity sites (\$20,000 to \$60,000) they could receive allocations during Phase 2. This fair share contribution will be necessary to assure that all of the traffic improvements and amenities are funded.

Lastly, EEHHG is concerned about numerous contradictions and ambiguities in the policy that make it very difficult to understand the obligations of the opportunity sites. For example, some portions of the document refer to funding obligations as a part of the rezoning approval of the first site while the Phasing Schedule refers to the first PD permit. EEHHG would like to work with staff to create a policy that is clear in its obligations and opportunities and maintains some flexibility to allow for implementation over a ten year period.

We look forward to working with staff to resolve these issues and create a policy that will allow for the well-planned buildout of the Evergreen area.

Very truly yours,

HMH ENGINEERS



Michael Keane  
Senior Planner